

EXHIBIT

39

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 17-CV-24206-MARTINEZ

LARA GEORGE MANSOUR a/k/a) Pages 1-75
LARA SAMAH,)
Plaintiff,)
vs.) Miami, Florida
MONA BACH MANSOUR, individually,) October 8, 2019
et al.,) 10:00 A.M.
Defendants.)

TRANSCRIPT OF EVIDENTIARY HEARING
BEFORE MAGISTRATE JUDGE ALICIA M. OTAZO-REYES
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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Official Court Reporter
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1 THE COURTROOM DEPUTY: Lara Mansour, et al., vs.
2 Mansour, et al., case number 17-24206-cv-Martinez.

3 Counsel, please state your appearance for the
4 record.

5 MR. VILLASANTE: Roberto Villasante on behalf of
6 Mrs. Mansour.

7 MS. MASELLA: Jessica Masella, and I'm here with my
8 colleague Harout Samra from DLA Piper, for the five Lebanese
9 government official defendants.

10 THE COURT: Thank you very much. You may be seated
11 except when addressing the Court. So I have plaintiff's
12 motion for relief from a judgment order pursuant to Federal
13 Rule of Civil Procedure 60. That's a matter that was
14 referred to me by Judge Martinez.

15 I have the Lebanese government defendants; and
16 that, from what I can tell, is Salim Jreissati, Samir
17 Hammoud, Ziad Mekenna, Ziad Haidar, and Pascal Antoun. Those
18 are the ones who subscribed the opposition, which is docketed
19 at Docket Entry 94. And then I have the plaintiff's reply.

20 Now, I have not received any papers, Mr.
21 Villasante, from the other defendants; namely, Mona Mansour,
22 Alexander George Mansour, Rolly George Mansour, and Dany
23 George Macaron. You have not received anything either?

24 MR. VILLASANTE: No, Your Honor. It is our
25 position that we are unopposed in our motion with respect to

1 those defendants.

2 THE COURT: Okay. All right. Hang on just a
3 second. You indicated that in your motion?

4 MR. VILLASANTE: I'm not certain that we said it
5 quite like that, no. But the defaulted defendants, those
6 that you just mentioned, have not responded and they are not
7 appearing in court today.

8 So it's our position that as to those defendants
9 that are not the Lebanese defendants whose counsel is here
10 today, there has been no opposition filed.

11 THE COURT: All right. So let's make sure that I
12 get the procedure straight.

13 You're saying that those -- I'll call them the
14 Mansour defendants -- those four defendants with the last
15 name Mansour, plus the defendant with the last name Macaron,
16 you're saying that default was entered against them?

17 MR. VILLASANTE: Default was entered against them.
18 The issue is after the default, there has been a dismissal,
19 which was taken under duress and improperly.

20 THE COURT: Right. Right. I'll address that in a
21 moment.

22 MR. VILLASANTE: Right.

23 THE COURT: I'm just trying to get the parties
24 lined up properly.

25 MR. VILLASANTE: Yes, ma'am.

1 THE COURT: So default was entered against those.
2 Was it a clerk's default that was entered? Can you point me
3 to the docket entry?

4 MR. VILLASANTE: I'll have to find it in the docket
5 entry. But the answer is, yes, that it was a clerk's
6 default.

7 Do you mind if I sit, Your Honor, for just a
8 moment?

9 THE COURT: Yes. I'm scrolling through here,
10 scrolling through here. Yes, I see it. Clerk's entry of
11 default, I think, is Docket Entry 79.

12 MR. VILLASANTE: Yes, Your Honor.

13 THE COURT: As to Rolly George Mansour, Mona Bach
14 Mansour, Marlene Wadih Layoun, Fadi Wadih Layoun, Dany George
15 Macaron, Alexander George Mansour.

16 So who are these other individuals; Marlene Wadih
17 Layoun and Fadi Wadih Layoun? They're not in the -- oh, here
18 they are. Those are individuals also.

19 MR. VILLASANTE: Yes.

20 THE COURT: I see them here. So I guess I will
21 call them the Mansour and Layoun defendants.

22 MR. VILLASANTE: Yes, Your Honor.

23 THE COURT: So as to all of those, default has been
24 entered and they have not appeared and are not appearing at
25 this hearing.

1 MR. VILLASANTE: That is correct, Your Honor.

2 THE COURT: So the motion is opposed only by the
3 Lebanese government defendants.

4 MR. VILLASANTE: Yes.

5 THE COURT: All right. So we got that straight.
6 So now the motion is proceeding under Rule 60, as I can tell
7 from the heading. And I am ready to receive any evidence
8 and/or argument that plaintiffs want to present; and then
9 I'll hear what we're calling out of convenience the Lebanese
10 defendants anything that they want to proffer.

11 MR. VILLASANTE: Just as a preliminary matter, Your
12 Honor, I intend to call my client as a witness and her
13 husband as well. And they will give Your Honor the testimony
14 about their detention and all the facts.

15 Before today after I filed my notice of appearance,
16 opposing counsel and I have had very cordial phone
17 conversations, we had two recently in the matter of
18 conferring about exhibits and witnesses; and until last week
19 they had represented to me that no witnesses and no
20 additional exhibits would be filed. This morning,
21 apparently, they received an affidavit from an attorney in
22 Lebanon that purports to be in the form of an expert witness
23 affidavit.

24 And, of course, that's being given to me moments
25 before this hearing. So I just want to preliminarily oppose

1 the introduction of that affidavit in any format because it's
2 a total surprise to me. Clearly as an expert witness, I
3 would have to have an opportunity to depose them and look at
4 the background, et cetera.

5 THE COURT: All right. Mr. Villasante, we will
6 address those issues when the defendants seek to present
7 anything to the Court.

8 MR. VILLASANTE: Yes, Your Honor.

9 THE COURT: So we can go forward then. The
10 plaintiff is Miss Lara George Mansour; correct?

11 MR. VILLASANTE: Yes, Your Honor. And we would
12 call her to the witness stand.

13 THE COURT: And you said that Mr. Mansour is
14 intending to testify also?

15 MR. VILLASANTE: Yes.

16 THE COURT: Do defendants want to invoke the rule?

17 MS. MASELLA: No, Your Honor.

18 THE COURT: You're okay with him remaining here?

19 MS. MASELLA: Yes, that's fine, Your Honor.

20 THE COURT: All right. All right. Let's get
21 started then.

22 MR. VILLASANTE: Your Honor, at this time we call
23 Mrs. Mansour, Mrs. Lara George Mansour.

24 THE COURT: All right.

25 MR. VILLASANTE: For the purposes of addressing the

1 witness, may I use the podium?

2 THE COURT: Yes. The podium works fine. If you
3 wish to, you can turn it. You can turn it.

4 MR. VILLASANTE: Thank you.

5 THE COURTROOM DEPUTY: Raise your right hand.

6 (Witness duly sworn)

7 THE WITNESS: Yes, I do.

8 THE COURTROOM DEPUTY: You may be seated. Please
9 state your full name for the record and spell your last name.

10 THE WITNESS: My name is Lara George Samaha.

11 LARA GEORGE SAMAH, PLAINTIFF, SWORN

12 DIRECT EXAMINATION

13 BY MR. VILLASANTE:

14 Q. Miss Samaha, are you the plaintiff in this case?

15 A. Yes.

16 Q. Miss Samaha, what is it that you do professionally in
17 Lebanon?

18 A. I own five stores in Lebanon for clothing.

19 Q. Did there come a point where you filed a lawsuit in
20 Lebanon and a lawsuit in the United States?

21 A. Yes.

22 Q. At some point -- I'm going to take you through the dates
23 of late March through April 11th.

24 At some point when you were in the United States,
25 did there come a time when you decide to return to Lebanon in

1 a matter related to this lawsuit?

2 A. Yes.

3 Q. And approximately at the end of March, is that when that
4 took place?

5 A. Yes.

6 Q. What is it that prompted you to return to Lebanon on
7 that occasion? I believe it was April 1st.

8 A. It was on April 1st we decided to come to Lebanon
9 because --

10 Majed Bouez was supposed to be my lawyer in
11 Lebanon. He promised us to come back because --

12 Q. Let me stop you for one second because some of the names
13 are going to be difficult for the court reporter.

14 A. Okay.

15 Q. So I'm going to just, if I may, with the Court's
16 permission, you mentioned Majed Bouez?

17 A. Bouez.

18 Q. B-o-u-e-z?

19 A. Yes.

20 Q. And that was your attorney in Lebanon?

21 A. In Lebanon.

22 Q. And he initiated communication with you?

23 A. Yes.

24 Q. All right. Please explain to the Court what happened.

25 A. He told my husband and he told me that there was a full

1 settlement already prepared and they're going to return back
2 my money and everything would be solved.

3 So me and my husband, we decided to return back to
4 Lebanon.

5 Q. All right. So on April 2nd when you returned to
6 Lebanon, it was your understanding that the matter was going
7 to be settled and that Attorney Bouez had prepared the
8 necessary documentation for you to return?

9 A. Yes.

10 Q. All right. Please explain to the Court what happened.

11 Did it come to pass that you went on an airplane
12 with your husband to Lebanon?

13 A. Yes.

14 Q. All right. And when you arrived, please explain to the
15 Court what it is that happened on April 2nd.

16 A. Upon my return to Lebanon, I just arrived to the airport
17 in Beirut and they just arrest me and take me into custody at
18 Beirut in the airport.

19 And they -- there was a custom border control, they
20 arrest me without any reason and they like kidnapped me and
21 put me into custody.

22 Q. Once they detained you at the airport, what happened at
23 that point? Were you told the nature of your arrest? What
24 else happened?

25 A. Nothing. They didn't tell me anything. They just took

1 me inside, they took my cell phone, and they told me wait a
2 little bit.

3 Q. You're going to have to slow down for purposes of the
4 court reporter.

5 A. I'm so sorry.

6 Q. They took you to an office?

7 A. They took me into custody, and they told me to take --
8 to give them the cell phone, my cell phone. They took my
9 cell phone.

10 Q. Okay. For how long were you detained at the airport?

11 A. For maybe 15 minutes, 20 minutes.

12 Q. And at that time were you told the nature of your
13 arrest, the purpose of your arrest?

14 A. They didn't know. They told me: You have to go to the
15 detention center, and they can tell you what happened.

16 Q. All right. And what happened next?

17 A. There was like three army men that were holding AK-47s.
18 They came and they took me inside the military car to the
19 detention center next to the airport.

20 Q. And what did they do with your husband at that time?

21 A. My husband was waiting outside, and he was asking: Why
22 are you detaining my wife?

23 Q. And you were put into a military transport vehicle with
24 three soldiers?

25 A. Yes.

1 Q. And these soldiers were carrying AK-47s?

2 A. Yes.

3 Q. And where were you taken? From the airport to where?

4 A. They took me -- next to the airport there was a
5 detention center where they put all prisoners inside.

6 Q. And when you arrived there, then what happened?

7 A. When I arrived, they opened the door for me and they
8 took me and they put me inside a waiting room. I was in the
9 waiting room.

10 Q. And then next?

11 A. And later my husband arrived and he was asking the
12 general of this detention: Why are you detaining my wife?
13 And I was asking what was the problem.

14 So he told -- they told me that I'm arrested
15 already because of the federal lawsuit that I filed here.

16 Q. Let me interrupt you there for one second. Who is
17 informing you that your arrest was because of this federal
18 lawsuit that took place here in the United States?

19 With whom were you speaking that gave you that
20 information?

21 A. The general of the detention center.

22 Q. Okay. And do you have -- well, go on from there.

23 What happened after he told you that you had been
24 taken under arrest because of this federal lawsuit?

25 A. So me and my husband -- I was shaking and crying. I

1 wasn't in a good -- I wasn't -- I was afraid. And I asked
2 what I did. What about the federal lawsuit? I was crying
3 when I was waiting inside the room.

4 And after, my husband -- they forced my husband to
5 leave and they took me. They told me: You have to go with
6 us. They took me and they take me upstairs and they put me
7 inside a small cage. And where they put me, there was no
8 light, no windows, no air condition, no nothing.

9 They put me inside this cage, and I was screaming
10 and said: Why are you just detaining me? Because -- just
11 because of the federal lawsuit? It's unfair. And I was
12 screaming after I heard, like, a woman --

13 Q. Let me stop you for a second because you're going
14 quickly, and I can see we need to be sure that the record is
15 clear. And so for madam court reporter's sake, I'm going to
16 interrupt you occasionally so that the record is clear.

17 Okay?

18 You were taken to a small cage. Describe for the
19 Court the cage that you were put in.

20 A. The cage, Your Honor, it was small and -- it was very
21 small, there was no windows, there was no fresh air, there
22 was no light, and there is the hole on the floor. You cannot
23 even use it as a bathroom.

24 Q. Excuse me. The hole on the floor was for purposes of
25 you using it as a bathroom?

1 A. Yes.

2 Q. Was there anything else inside the room?

3 A. And -- no. There was a small bed that you cannot even
4 sit on it and it was broke and there was a very bad smell.

5 Q. All right. When you were inside of that caged area, for
6 how long were you there initially?

7 A. They keep me till, like, 12 hours.

8 Q. And during those 12 hours, were you fed? Were you given
9 food?

10 A. No, they didn't bring me food. After one day when they
11 closed the cage on me, I don't know what was the time, I
12 heard, like, some woman. There was screaming and crying.
13 And here I was in a total panic, and I fell down on the
14 floor.

15 I was really crying, and I don't know what -- what
16 will happen with me. Maybe they will torture me or they will
17 kill me. I don't know.

18 Q. Mrs. Mansour --

19 A. I start to scream and shout and say: Please, please,
20 I'm not feeling good. I feel like my heart attack. I need
21 somebody to help me.

22 And can I explain? And after --

23 THE COURT: Listen to me. Just take a deep breath.
24 Okay? And tell us. I know this is very emotional for you.
25 Okay? But we need to understand what you're saying.

1 THE WITNESS: Yes.

2 THE COURT: So you need to, number one, speak more
3 slowly; like if you were speaking to a child maybe. Okay?

4 THE WITNESS: Okay, Your Honor.

5 THE COURT: And just tell the story. Even though
6 it's hurting inside, tell the story so we can get the
7 complete story. Okay?

8 THE WITNESS: Okay.

9 THE COURT: Can you try that?

10 THE WITNESS: Okay, Your Honor.

11 THE COURT: Okay. Go ahead.

12 THE WITNESS: And later I was screaming. And after
13 when I was screaming because I didn't -- I felt like I would
14 have a heart attack or stroke, I was screaming.

15 BY MR. VILLASANTE:

16 Q. Mrs. Mansour, let me ask you something so that the Court
17 is aware. Do you have any medical conditions?

18 A. Yes. I'm diabetic and I'm taking some medication.

19 Q. And when you were in the cage, you described hearing
20 another woman screaming?

21 A. I heard another woman that was screaming next to me, and
22 she -- I was in a total panic attack. I was really afraid,
23 and I don't know. Maybe -- maybe they would torture me.

24 Q. Mrs. Mansour, what was your impression, your
25 understanding that was happening to the other woman who was

1 screaming?

2 A. That they were maybe hurting her or raping her. I don't
3 know because she was really screaming too much. And I
4 thought they were set to torture me also, so I fell down and
5 I was screaming and I called somebody --

6 MS. MASELLA: Objection, Your Honor.

7 THE COURT: Yes. I'm sorry. Go ahead.

8 MS. MASELLA: Is there a question pending, Your
9 Honor?

10 MR. VILLASANTE: Yes, Your Honor. I'm asking for
11 her to describe her detention, and at this point the
12 detention is in that caged area.

13 BY MR. VILLASANTE:

14 Q. So my question is: Please describe for the Court the
15 circumstances of your detention while you were in the caged
16 area after you heard the woman screaming. Go from that time
17 period forward.

18 A. After I heard the woman, she was screaming, Your Honor,
19 I -- I start to shout and scream and I was really afraid.

20 And after that, there was an army man. He came and
21 he start to shout at me: Why you are screaming? And I told
22 him: I'm not feeling good. Please help me because I fell
23 down and I didn't take my medication.

24 So this man -- this army man, he was holding a
25 knife. He start to run the blade of the knife on the steel

1 cage, and he told me: Shut up. I don't want to hit you. I
2 told him: Please, I'm not feeling good. I have to take my
3 medication and I cannot breathe even. There is no window.
4 And he told me: That's your problem. And he left. He left
5 me on the floor.

6 Q. Mrs. Mansour, let's move forward. You were in this
7 caged area?

8 A. Yes.

9 Q. You described it as a small area --

10 A. Yes.

11 Q. -- with everything that just happened.

12 And you were there for 12 hours; correct?

13 A. Yes.

14 Q. All right. So we can move ahead to the next day. Was
15 there anything else that happened during those 12 hours
16 besides the woman that you thought was being tortured and the
17 knife with the military man?

18 A. I couldn't breathe. I was in a total panic. Like I
19 can't -- like I'm dying. It was a horrible night. I don't
20 know. I was praying, and I didn't know what to do.

21 Q. Tell me what happened after those 12 hours. Where were
22 you taken from there?

23 A. And the second day, Your Honor, there is another army
24 man. He came and open the cage on me and he took me to the
25 officer downstairs and I saw my husband. He was inside the

1 office. And I was asking him: Why are you detaining me?

2 Q. Describe for the Court where specifically did they take
3 you? Was there another prison?

4 A. Yes.

5 Q. Where did they take you? Describe it for the Court.

6 A. They took me to the Internal Security Forces to just
7 interrogate me. So I was in the detention center next to the
8 airport, and they want to transfer me to another, like,
9 Internal Security Forces to interrogate me about the federal
10 lawsuit. That's what he explained for me, the general.

11 Q. Were you taken to an interrogation room at the Internal
12 Security Forces, the ISF?

13 A. Yes.

14 Q. Describe for the Court --

15 First of all, what is your understanding of the
16 ISF? Who are they?

17 A. The ISF, Your Honor, is where they put all the
18 terrorists of all the world inside this center. All the
19 people who are terrorists, they put them there. They are
20 really very dangerous people. They put them in this center
21 where they transferred me already.

22 And I couldn't breathe. I was really -- and they
23 want to put a whole bag on my head to take me with them to
24 the Internal Security Force.

25 Q. Let me interrupt. I'm sorry. I just want to go by

1 timeline.

2 So now when you arrived at the interrogation
3 center, are you placed in another cell? Or where are you
4 placed?

5 A. They took me to the Internal Security Force also with
6 the army, and there was also, maybe, four soldiers also. All
7 of them that were holding -- like I was something, a criminal
8 -- they were holding AK-47s. And they took me to the
9 Internal Security Forces, and they took me upstairs directly.

10 Q. Did they take you to a room?

11 A. No. They took me first to a bathroom, and they forced
12 me to remove all my clothes. And I was asking: Why do you
13 want me to remove my clothes? And they told me: If you will
14 not remove, we will remove your clothes by force.

15 And I was crying and screaming: I don't want to
16 remove my clothes. Just to break me down, they ordered me to
17 remove my clothes for a few minutes. After they told me:
18 Put your clothes on you. And I was really crying.

19 I couldn't -- I fell down. I couldn't sit. I was
20 in a total panic after they told me: Put your clothes on and
21 go to the interrogation room. I put --

22 Q. And once you were strip searched or you were stripped,
23 then they had you go to the interrogation room after?

24 A. Yes.

25 Q. Describe for the Court your experience in the

1 interrogation room.

2 A. They took me, Your Honor, to interrogation room. There
3 was two guys; one, his name that he told me, his name is
4 Captain Cezane.

5 Q. Cezane?

6 A. Cezane.

7 Q. Cezane is French.

8 A. Cezane and the other man who was writing was going to
9 interrogate me, and they start to interrogate me just about
10 the federal lawsuit.

11 Q. When you talk about the federal lawsuit, you're talking
12 about this lawsuit that we're here today for?

13 A. Yes.

14 Q. So you were taken to an interrogation room. Two
15 soldiers are interrogating you at that point?

16 A. Yes.

17 Q. And the only subject matter of questioning was the
18 federal lawsuit?

19 A. The federal lawsuit.

20 Q. For how long were you kept in the interrogation room?

21 A. Six, seven hours, Your Honor, they interrogate me: Why
22 you filed a federal lawsuit? I said: What's the problem if
23 I filed? It was a civil lawsuit. What was the crime?
24 What's the problem if I filed a civil lawsuit? This is my
25 right.

1 So they start to interrogate me about: Who is your
2 lawyer? What's the name of the lawyer? Who is the judge?
3 If you know the judge. It's not civil, it's criminal. I
4 tell them: It's not a criminal. Only the government in the
5 United States can sue you as a criminal lawsuit.

6 Q. Mrs. Mansour, let me stop you there. If I understand
7 your testimony, what you were telling your captors --

8 A. Yes.

9 Q. -- is that you had filed a civil lawsuit; that in the
10 United States you can't file a criminal lawsuit?

11 A. Yes.

12 Q. Is that what you were saying?

13 A. Yes.

14 Q. So for seven hours they interrogated you about your
15 federal lawsuit?

16 A. Yes.

17 Q. During that time, other than the two individuals that
18 were interrogating you, did there come a point where you saw
19 anybody else?

20 A. Yes. When they were interrogating me, Your Honor, I saw
21 -- they opened the door and they bring me water. I didn't
22 eat anything from before, 24 hours. Till the morning they
23 bring me water because I need to bring and take my
24 medication. I told them: I have my medication. They bring
25 me my medication because I told them: Please, I have

1 diabetes. After, they told me: Wait a little bit. I need
2 to go open --

3 Q. Mrs. Mansour, I need for you to slow down just a little
4 bit.

5 A. I'm sorry for that.

6 Q. So once the door is opened, they --

7 A. Yes, they --

8 Q. Mrs. Mansour, one at a time. Okay?

9 A. Yes.

10 Q. I know this is very difficult.

11 A. Okay.

12 Q. We all know this is very difficult. So I just want you
13 to, please, let's go slowly --

14 A. Yes.

15 Q. -- so that the record is clear. Okay?

16 A. Okay.

17 Q. You testified that at some point the door is opened?

18 A. Yes.

19 Q. And then you saw other individuals that were not the two
20 soldiers?

21 A. Yes.

22 Q. Describe for the Court what you saw.

23 A. They opened the door because they told me, give me five
24 minutes. Then going outside, I saw Dany Macaron, one of the
25 defendants, was with my brother outside and talking and

1 laughing and repeating everything: I was just to dismiss the
2 federal lawsuit again. They, like, come back and they
3 interrogate me.

4 Q. Who came in to interrogate you?

5 A. Captain Cezane.

6 Q. All right. You saw one of the other defendants, Dany
7 Macaron?

8 A. Yes.

9 Q. But he did not come in with them?

10 A. No. They stayed outside.

11 Q. He was outside and you overheard him while he was
12 outside speaking with one of your brothers?

13 A. Yes.

14 Q. Who was also a defendant?

15 A. Yes.

16 Q. Once they come back inside and they continue the
17 interrogation, what did they request from you?

18 A. They told me -- you know, after six, seven hours, I was
19 really tired. And they told me: You will not leave this
20 place if you will not dismiss the federal lawsuit.

21 I said: I will not dismiss the federal lawsuit.
22 Whatever you want to do, even you want to kill me, I don't
23 want to dismiss the federal lawsuit. You cannot -- it's my
24 right, and you cannot force somebody to dismiss the federal
25 lawsuit.

1 And he told me: So you will stay here. You cannot
2 leave. I tell him: Okay. You want to keep me here, keep
3 me. I will not dismiss. Even you want to kill me, I will
4 not dismiss the federal lawsuit.

5 Q. And what happened?

6 A. I was crying.

7 Q. What happened after you denied them dismissing the
8 lawsuit?

9 Where did you go from there? Explain to the Court
10 what happened after that.

11 A. They took me again. They took me underground where it
12 was all the terrorists for the ISIS, Al Qaeda, and there was
13 the son of Gaddafi downstairs.

14 Q. Let me just stop you because, again, just to help with
15 the transcript.

16 After this, they take you downstairs in an area
17 where they're holding ISIS and Al Qaeda prisoners and the son
18 of Gaddafi?

19 A. Yes.

20 Q. And describe for the Court that general prison area
21 where they took you to that was underground.

22 A. Your Honor, this is underground like a mine; seven
23 floors underground. If you go inside, it's darkness. You
24 cannot see even your hands. You cannot see even your hands,
25 and there is a small light. You can go inside, there was a

1 small, small light, and you go and there was cages. All the
2 cages of these terrorists, that was full. They put all the
3 terrorists inside.

4 So they didn't put me inside the cage. They put me
5 with them. There was five army men, and they were wearing
6 black masks, and they put me next with them. And I was
7 shaking and crying and I was real afraid. I thought this
8 night they will kill me for sure; I will not survive anymore.

9 I was thinking about my kids and my husband, I
10 would never see anymore my family, it was my last night. And
11 I was crying and I didn't know what to do. I didn't know
12 what to do.

13 Q. Mrs. Mansour, how long --

14 MR. VILLASANTE: Your Honor, may I help her with
15 some water?

16 THE COURT: Yes, of course.

17 MR. VILLASANTE: Thank you.

18 THE COURT: Yes. That's why we have it there. And
19 if we need a break, we can take it. If she needs a break at
20 anytime, we can do that too.

21 MR. VILLASANTE: Thank you.

22 THE WITNESS: Sorry.

23 BY MR. VILLASANTE:

24 Q. There is no need to be sorry. I'm just trying to make
25 the testimony as clear as possible.

1 After they take you to that segregated area for Al
2 Qaeda and ISIS, for how long did you remain in that dark
3 cell?

4 A. They keep me till the morning before -- they keep me
5 down till the morning.

6 Q. To the next morning?

7 A. To the next morning. And before they took me upstairs
8 for the next morning, they bring one of these terrorists they
9 put in front of me, and they start to --

10 Q. Let me just, so we're clear --

11 A. Sorry I'm going so fast.

12 Q. So the next morning --

13 A. Yes, the next morning.

14 Q. The next morning they take you out of that isolated
15 area, the segregated area, and they bring you where?

16 A. Before they took me upstairs --

17 Q. Okay.

18 A. -- to interrogate me again, they bring one of these
19 terrorists, they put him in front of me, and they start to
20 torture him. And there was, like, ten army. They put all
21 black masks on. They start to torture.

22 After, I fell down. I couldn't look at them. And
23 they bring me, like, water and sugar and they took my blood
24 pressure and they took my blood sugar. I wasn't feeling
25 good. I -- I -- I didn't feel well at all. After they told

1 me: Let's take you upstairs. They took me again upstairs,
2 and they put me inside a waiting office.

3 Q. Mrs. Mansour, your understanding of the circumstances,
4 what was your understanding of the purpose of them bringing
5 another prisoner and torturing him in front of you?

6 A. Just to show me, Your Honor, that: If you will not
7 dismiss the federal lawsuit, that will happen for you. We
8 will treat you the same like we are treating this terrorist.
9 We will torture you. Maybe they will kill me for sure if you
10 will not dismiss. Again, they took me upstairs.

11 Q. All right. Now describe for the Court what happened
12 when they took you upstairs. And, again, let's try to go
13 slow paced, as slowly as possible.

14 A. They took me upstairs and they put me inside the waiting
15 office. Again Captain Cezane came and he told me: You want
16 to dismiss the federal lawsuit. Again he asked me for the
17 second day.

18 I told him: I don't want to dismiss the federal
19 lawsuit. Even I told you yesterday. You want to hurt me,
20 you want to kill me, whatever you want to do, I will not
21 dismiss the federal lawsuit. He said: Fine. And he leave.

22 And maybe one hour, I don't know exactly, I saw my
23 husband. They bring my husband and I saw my husband. I was
24 crying and he was crying and I hold him. After he told me:
25 We have to dismiss the federal lawsuit or they will sentence

1 us here for jail and they will not let you to leave this
2 area. We have to dismiss. I said: No, I don't want to
3 dismiss. If you want to do --

4 Q. Mrs. Mansour --

5 A. -- I don't want you to dismiss.

6 Q. -- did there come a point when your husband was with you
7 that you called your American attorney?

8 A. They bring my husband inside, Your Honor, and they put
9 us inside an office and I don't recall. Only was Captain
10 Cezane there.

11 And later on maybe there was one also he came and
12 he sit next to me. And they bring the phone for my husband
13 and tell him: Call your attorney in the States.

14 He called Mr. Berkeley, and he told him: Tell him
15 to dismiss. My husband was calling Lorne Berkely. I quickly
16 took the phone from him and I return around the corner. I
17 said: Please don't dismiss the federal lawsuit. And call
18 the FBI. They will kill us. And they took us as hostage.
19 Please call the FBI to help us. Please.

20 Q. Mrs. Mansour, just so the record is clear, they used
21 your husband's cell phone --

22 A. Yes.

23 Q. -- to call Mr. Berkeley?

24 A. Yes.

25 Q. And when they instructed him to tell Mr. Berkeley to

1 dismiss the lawsuit --

2 A. Yes.

3 Q. -- you grabbed the phone from your husband's hand?

4 A. Yes.

5 Q. And you told Mr. Berkeley: Don't dismiss. Call the
6 FBI. Am I understanding your testimony?

7 A. They will kill us. Please. It's very dangerous, our
8 situation is, very. Call to the FBI and tell them they have
9 -- we have been taken hostage. Please, Lorne.

10 The captain took the phone from me by force and he
11 give it back to my husband and he told him: Dismiss already
12 the federal lawsuit. He ordered him. After my husband said
13 to Mr. Berkeley: Dismiss the judge.

14 First thing he demands to ask, dismiss the judge.

15 Q. Stop for one second there. Is one of the defendants in
16 this case that is a judge in Lebanon; correct?

17 A. Yes.

18 Q. All right. And what was being asked of your husband is
19 to dismiss first --

20 A. The judge.

21 Q. -- that judge?

22 A. Yes.

23 Q. All right. And this was immediately after what you just
24 described to us where he yanked the phone?

25 A. Yes. He took it by force from me.

1 Q. So please continue to describe what happened in that
2 phone conversation with your husband, Mr. Berkeley, and
3 Captain Cezane?

4 A. My husband, he told already for my lawyer, Lorne
5 Berkeley, to dismiss the case from the judge. And I was
6 screaming: Don't listen. Lorne, don't listen to my husband,
7 please. Please. Like I told you, go call the FBI.

8 And the guy, he told me -- next they bring -- he
9 said: If we scream, we will take you again now underground
10 and you will be tortured. I don't want to hear your voice.

11 After my husband tell him: Okay. I will dismiss
12 it. Because he was afraid maybe they will kill us. He told
13 Mr. Berkeley to dismiss the charge.

14 Q. Let me stop you there.

15 A. And he told him: Send an e-mail. And they sent an
16 e-mail from my husband. It's not from me, Your Honor. I
17 didn't dismiss the federal lawsuit. Even they forced me to
18 dismiss it, I didn't accept.

19 Q. Let me ask you this: At that point were you aware of
20 any threats that had been made directly to your husband at
21 that point?

22 Not later on, but at that point were you aware of
23 the threats that they had made to your husband when he was
24 walking in?

25 A. I didn't understand. I'm sorry.

1 Q. Did there come a point where you learned that your
2 husband had been given specific threats different from what
3 you were threatened?

4 A. Yes. Yes.

5 Q. All right.

6 A. After, later on I knew.

7 Q. You learned it later on?

8 A. Yes.

9 Q. So at the time that your husband spoke to Mr. Berkeley
10 to dismiss, what were the additional threats that they had
11 made to him?

12 A. They want to bring my daughter --

13 MS. MASELLA: Objection, Your Honor. Hearsay.

14 THE COURT: One moment. Yes, ma'am.

15 MS. MASELLA: Hearsay, Your Honor.

16 THE COURT: Hearsay.

17 MS. MASELLA: Statements made to the husband at
18 some point outside of her presence.

19 MR. VILLASANTE: No. My question is to her: What
20 knowledge did she come to have of the threats that her
21 husband was under at the time of the phone call.

22 THE COURT: Yes.

23 MR. VILLASANTE: What's her understanding.

24 THE WITNESS: Threats.

25 THE COURT: Right. She's testifying about actions

1 that were taken. Do not repeat anything that you heard
2 directly from your husband; just say what you understood was
3 happening.

4 THE WITNESS: My -- I understood first that they
5 want to kill us and they will not let us out of this
6 detention before they kill us. I didn't even think what
7 after. I knew that they want to bring my daughter because
8 she came -- she come back with us from the USA to Beirut.
9 They want to take my daughter and bring her and torture her,
10 and maybe they will hurt her and kidnap her and they will
11 torture her.

12 My husband knew that they want to bring my
13 daughter, Yasmina, which is in med school here. She's in med
14 school in the United States. They want to bring my daughter
15 and torture her to force me to dismiss or force my husband.
16 They threatened to bring my daughter, to hurt her.

17 BY MR. VILLASANTE:

18 Q. And was your daughter in Lebanon at that time when you
19 were --

20 A. Yes. She was at my brother-in-law. We hide her inside
21 the house of my brother-in-law. Take my daughter and hide
22 her because she was afraid if they will bring my daughter and
23 they will torture her also to force me to dismiss.

24 Q. Let me go back to where we are in terms of the timeline.
25 Okay?

At this point your husband is on the phone with Mr. Berkeley; correct?

A. Yes.

Q. All right. And he instructs Mr. Berkeley to dismiss the case?

A. Yes.

Q. And then you spoke about an e-mail that was sent?

A. From my husband.

Q. All right. And what was that e-mail and to whom?

A. My husband sent an e-mail for Mr. Berkeley to dismiss, just first the judge because they want to dismiss only the judge. They asked for dismiss of the name.

Q. And then what happened after that, or was that it? Did that become enough for you to be released?

A. No.

Q. What happened then?

A. They didn't even -- they want more. After three hours, they bring again the phone. They keep us in this room, and they came and they told us: Now you have to dismiss the default judgment with the family members. And my husband told them: I cannot. This is for the court. I cannot dismiss a default judgment. The judge can dismiss it. No, you can. Now, call your lawyer again and dismiss all the family members and the default judgment and with prejudice.

And I was screaming and tell him: It's unfair.

1 It's unfair. You took everything. I don't want to dismiss
2 my case. And I was screaming, Your Honor, in this room, and
3 there was a camera and everything. You can see it.

4 Q. Now, did there come a point where a dismissal -- as you
5 understand it, a dismissal was entered by your lawyer in the
6 United States in this case?

7 A. Excuse me?

8 Q. When you were there and the e-mail was sent, did there
9 come a point where a dismissal was, in fact, filed?

10 A. Yes.

11 Q. Was that enough for you to obtain your release?

12 A. No.

13 Q. What happened then?

14 A. They didn't accept only to dismiss the federal lawsuit
15 and all the default judgment and all the family members.
16 Also they -- they took us again to torture me and my husband.
17 They put us down underground, and they didn't let us go
18 before I have given ransom for my inheritance in Lebanese.
19 They took my inheritance. Also they asked for my inheritance
20 that I -- it's my right. They want also to take my
21 inheritance. This was for me, to take my freedom from me and
22 my husband.

23 Q. All right. So you were detained on April 2nd?

24 A. Yes.

25 Q. On what day were you finally released?

1 A. On April 11th.

2 Q. All right. And during that entire period of time, you
3 were in the type of conditions and circumstances that you
4 described here?

5 A. Yes.

6 Q. Why is it that the dismissal -- I believe the docket
7 entry will show it took place and an order was entered on the
8 5th.

9 A. Yes.

10 Q. Why were you not released on the 5th as you understand
11 it?

12 A. They didn't let us, Your Honor, before they saw the
13 Honorable Jose Martinez signed, all right, the federal
14 lawsuit, and they put it on the screen.

15 Q. Let me stop you there for a second. When you refer to
16 the screen --

17 A. Yes.

18 Q. -- you're saying that they wouldn't let you go until the
19 judge's order was actually entered on the docket and they
20 could see it on the computer?

21 A. Yes.

22 Q. So how many days, more or less, were you held during
23 that process?

24 A. They wait till they saw the signature of the Honorable
25 Jose Martinez's signature on the screen and with prejudice

1 and with all the defendants. And when they saw everything is
2 done already, they took us again for a hearing. They took me
3 and my husband for a hearing, and here they want to take us
4 to just maybe kill us because they finished already from the
5 federal lawsuit.

6 Q. Describe for the Court the transportation.

7 A. They took us inside a black car where it was like -- and
8 there was two black cars follow us. There was maybe, like,
9 20 or 30 army men. It was like a war.

10 And they took us before Ziad Abo Haidar, one of the
11 defendants.

12 Q. Stop for one second because I know we're not going to
13 get that. Ziad Abo Haidar?

14 A. Yes.

15 Q. Z-i-a-d, A-b-o, H-a-i-d-a-r?

16 A. Yes.

17 Q. And tell me what happened with Mr. Abo Haidar?

18 A. Majed Bouez, he was outside.

19 Q. You saw Majed Bouez, being the attorney in Lebanon?

20 A. He was supposed to be our attorney, but he is working
21 more for the defendant. He worked more for the government
22 and the other one you referred to me.

23 Q. Let me stop you for a second. So continue by going
24 forward on a timeline. Okay?

25 At this point you had already or your husband had

1 requested that the case be dismissed, but they were waiting
2 for the docket entry and they transport you to a hearing; is
3 that correct?

4 A. Yes.

5 Q. All right. And during the course of that
6 transportation, explain to the Court the circumstances that
7 you were describing; many cars, many soldiers, et cetera.

8 A. They put us inside the car and there was waiting for the
9 attorney, whose name is Majed Bouez, and we saw him outside.
10 We called him. He didn't even look at us or answer us. He
11 was not, like, our lawyer and went to Ziad Abo Haidar.

12 Q. Okay. He went to speak to Ziad?

13 A. Ziad Abo Haidar. One of the army men also, he went with
14 Majed Bouez. And he heard him. He heard that there was
15 negotiation, how they would separate me from my husband, and
16 they want to sentence us for three years jail and they want
17 to kill us for sure. For sure, Your Honorable Judge.

18 He said they don't want us to come back and tell
19 you what happened. That's everything that they want. They
20 don't want me to come back to the States, and they were
21 negotiating how they would sentence us.

22 And he come back, one of the army men, and he told
23 us: Are you sure this is your lawyer? We say: Why?
24 Because he is discussing how they want to sentence you for
25 three years jail and they will not let you come back to the

1 U.S. from here.

2 Q. Let me stop you there for one second.

3 A. Me and my husband, we were crying. We were crying and
4 inside the car saying: Please don't let them take us and
5 kill us. Please. We were begging them.

6 Q. Where did you understand you were being taken to? Was
7 it a military facility?

8 A. Yes. They want to take us to a military facility where
9 they put more than the one they put me, more and more all the
10 terrorists for all the people that they kill. And, I don't
11 know, maybe they want to kill us.

12 Q. And did they, in fact, take you to that military
13 facility?

14 A. No. They called the General Hamoud, one of the Internal
15 Security Forces. They called him and they told him there is
16 the situation and he said: No, we don't want to be involved
17 with the American citizen residents. Bring them here. Bring
18 them back to the Internal Security Forces.

19 So they bring us fast directly to the Internal
20 Security Forces.

21 Q. And what happened there?

22 A. And there they took us upstairs and they told us that
23 the embassy will come and talk to us, and we feel better.
24 And we wait for the U.S. embassy from consul or from the
25 official, the ambassador, and they don't show. But we

1 thought that they came and they looked at us because they put
2 us inside a room where it was all glass so they can see us,
3 that we're still alive.

4 Q. Just so that I understand, they placed you inside an
5 interrogation room with mirrored walls?

6 A. Mirrored. All room, it was all mirrored, like glass.

7 Q. And it is your understanding that people from the
8 embassy --

9 A. Yes.

10 Q. -- came to see you?

11 A. If we were still alive. If we're still alive.

12 Q. After you were there, where were you taken next and what
13 happened?

14 A. After they didn't come, we didn't talk to anybody, they
15 told us: Now, let's take us to General Hamoud's office. It
16 was the first time we met with the general of all the
17 Internal Security.

18 Q. General Hamoud?

19 A. Yes.

20 COURT REPORTER: Judge, I don't have the spellings
21 of any of these names.

22 THE COURT: I'm sure counsel will help you
23 afterwards.

24 MR. VILLASANTE: I will be happy to go over the
25 names.

1 BY MR. VILLASANTE:

2 Q. So the general of the ISF then comes to see you in the
3 interrogation room?

4 A. Yes.

5 Q. What happened then? And, again, I know it's difficult,
6 but we have to go as slowly as possible for the court
7 reporter.

8 A. Yes. I'm sorry.

9 Q. What happened after the general returns to the
10 interrogation room?

11 A. No. They took us to the General Hamoud, to his office.

12 Q. Yes.

13 A. And here he told us: I cannot anymore. You have to
14 call the U.S. embassy and tell them that all these
15 defendants, this Judge Ziad Haidar -- Ziad Abo Haidar, they
16 force him -- they forced General Hamoud to take us from the
17 Internal Security Force office. They want to hurt us.

18 Q. I'm not understanding you there. The general is telling
19 you what?

20 A. He told me: I'm detaining you here. It's by the
21 judges, they order me to detain you. But I'm not involved
22 with this detain. I want to tell you that, call the U.S.
23 embassy and explain the situation; that they want to take you
24 from here, and for sure they want to kill you. I cannot
25 anymore. They were calling and calling and calling.

1 Q. Mrs. Mansour, did there come a point where you got to
2 speak with someone at the embassy?

3 A. Yes.

4 Q. And were you able to explain what the general had told
5 you; that your life was in danger?

6 A. Yes.

7 Q. Did there come a point where you in fact were released?
8 Correct?

9 A. Yes.

10 Q. All right. And what led to your release? What finally
11 happened that led to your release from these circumstances?

12 A. I'm sure from the U.S. embassy and my lawyer, he -- I
13 think he called the minister of justice because I told them
14 to call the FBI.

15 I don't know, but there was a lot of pressure, Your
16 Honor, on this defendant and one of the consuls. Her name is
17 Cindy.

18 Q. One of the consuls? One of the officers?

19 A. Yes. She visited us in the detention center on Monday,
20 and we explained for her the situation. She told me: I know
21 everything. Don't worry. I went to Ziad Haidar's office and
22 we forced him to not take you from here. You will leave
23 after a few days. Don't be afraid. We will help you. We
24 will not keep you here.

25 Q. All right. So at that point --

1 A. We were crying, me and my husband. I was begging her:
2 Please, they want to kill us for sure. Please, consul.
3 Please do your best and take us from here. And bring my
4 daughter also with me on the airplane to come back home, to
5 come back to the States.

6 Q. At the time that this lawsuit was dismissed --

7 A. Yes.

8 Q. -- were you in the state of anxiety and duress that we
9 even see here today?

10 A. More. More. I was really crying and I thought I will
11 never survive anymore. I will never see my kids anymore.

12 That's what they want to do. That's what they want
13 to do. They don't want me to come back home anymore, for
14 sure.

15 Q. Thank you, Mrs. Mansour. I don't have anything further
16 to ask you.

17 MR. VILLASANTE: Thank you, Your Honor.

18 THE COURT: Defense.

19 MS. MASELLA: Thank you, Your Honor.

20 THE COURT: Yes.

21 CROSS-EXAMINATION

22 BY MS. MASELLA:

23 Q. Good morning, Mrs. Mansour.

24 A. Good morning.

25 Q. Do you need a moment, or are you all right?

1 A. I'm fine. Thank you.

2 Q. Mrs. Mansour, can you tell us what country you are a
3 citizen of?

4 A. I am a citizen of -- I am a citizen of Lebanon and I am
5 a resident of U.S.

6 Q. Thank you. You're not a citizen of the United States;
7 correct?

8 A. I am a resident.

9 Q. But not a citizen?

10 A. And I am a resident of Florida.

11 Q. Just to make sure the record is clear:

12 You're not a citizen of the United States, correct?

13 A. Excuse me?

14 Q. You are not a citizen of the United States?

15 A. I am a resident of the United States. I am a resident
16 of Miami.

17 Q. Okay.

18 THE COURT: Ma'am, I'm sorry. Try to answer the
19 question. It's either yes or no.

20 You're either a U.S. citizen or you're not. Which
21 is it?

22 THE WITNESS: I am a resident.

23 THE COURT: Ma'am, listen to me. Are you a United
24 States citizen?

25 THE WITNESS: No.

1 THE COURT: No, not a United States citizen; is
2 that correct?

3 THE WITNESS: Yes.

4 THE COURT: So when you're asked questions, you
5 need to answer them.

6 THE WITNESS: Okay, Your Honor.

7 THE COURT: Do you understand?

8 THE WITNESS: Thank you.

9 THE COURT: Go ahead, ma'am.

10 MS. MASELLA: Thank you, Your Honor.

11 BY MS. MASELLA:

12 Q. Now, in connection with what we are referring to as the
13 federal lawsuit -- which is the lawsuit here in this
14 courthouse -- you had retained United States counsel in
15 connection with that lawsuit; correct?

16 A. I'm sorry, I didn't understand.

17 Q. You had an attorney in connection with that lawsuit;
18 correct?

19 A. Yes.

20 Q. And that's Mr. Lorne Berkeley --

21 A. Correct.

22 Q. -- at the time of these events?

23 A. Yes.

24 Q. And you and your husband were in communication with him
25 during the time that you were in Lebanon?

1 A. Yes.

2 Q. And you also had Lebanese counsel; correct?

3 A. Yes.

4 Q. And that's the individual that you referred to as Majed
5 Bouez?

6 A. Yes, Majed Bouez.

7 MS. MASELLA: Thank you, Your Honor. I have no
8 additional questions at this time.

9 THE COURT: All right. Redirect.

10 MR. VILLASANTE: Just brief redirect, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. VILLASANTE:

13 Q. When you say you're a resident of the United States,
14 you're a permanent resident with a green card?

15 A. Yes.

16 MR. VILLASANTE: Thank you.

17 THE COURT: All right. Thank you, ma'am. You may
18 step down.

19 THE WITNESS: Thank you.

20 (Witness excused)

21 MR. VILLASANTE: Your Honor, if we may have just a
22 five-minute comfort break before Mr. Elie Samaha?

23 THE COURT: Yes. Let's take ten minutes.

24 (Recess)

25 THE COURT: Mr. Villasante.

1 MR. VILLASANTE: Thank you, Your Honor. We call
2 Mr. Samaha.

3 THE COURT: All right.

4 THE COURTROOM DEPUTY: Please raise your right
5 hand.

6 (Witness duly sworn)

7 THE WITNESS: I do.

8 THE COURTROOM DEPUTY: You may be seated. Please
9 state your full name for the record, and spell your last
10 name.

11 THE WITNESS: Elie Samaha, S-a-m-a-h-a.

12 THE COURT: Okay. Go ahead, Mr. Villasante.

13 MR. VILLASANTE: Thank you, Your Honor.

14 ELIE SAMAH, PLAINTIFF WITNESS, SWORN
15 DIRECT EXAMINATION

16 BY MR. VILLASANTE:

17 Q. Mr. Samaha, what is your relationship to Lara George
18 Mansour?

19 A. I'm her husband.

20 Q. And with respect to the lawsuit that we're here today
21 for, did you communicate with your wife's attorneys related
22 to this lawsuit during the course of the pendency of the
23 litigation?

24 A. You mean Mr. Berkeley?

25 Q. Mr. Berkeley or other lawyers on her behalf.

1 A. When we were detained at the ISF, I spoke to Mr.
2 Berkeley, yes.

3 Q. Tell me -- let's go back in terms of dates. Beginning
4 on April 1st or April 2nd, you and your wife decide to return
5 to Lebanon; is that correct?

6 A. Correct.

7 Q. And what were the circumstances that led to your
8 decision to return to Lebanon?

9 A. My wife's attorney, Mr. Berkeley, told my wife and told
10 me that they reached a settlement and to return back and they
11 would give her her money.

12 Q. You went to Lebanon under the impression that the matter
13 was being settled?

14 A. Yes.

15 Q. All right. What happened when you returned in Lebanon,
16 to you?

17 A. Well, on April 2nd they took my wife; and then on
18 April 4th they told me to come in to the ISF, and they
19 detained me. And they said: You have to dismiss the
20 lawsuit. Your wife is not dismissing the lawsuit.

21 Q. Did they ever file any formal criminal charges against
22 you?

23 A. Nothing.

24 Q. Are you a plaintiff in this lawsuit?

25 A. No.

1 Q. When they detained you, did there come a point where
2 they brought you to the same room as your wife?

3 A. Yes. They put me underground with Al Qaeda and ISIS and
4 the son of Gaddafi.

5 Q. All right. For how long were you kept in that area of
6 the jail?

7 A. One night. Thursday night.

8 Q. And describe from your perspective what was that area
9 like? Describe the jail cell, the setting.

10 A. It's like Guantanamo for Lebanon, Your Honor. It's
11 extremely dangerous. Terrorists, that's where they keep
12 them; suicide bomber, people like that.

13 And they put us downstairs Thursday night till
14 Friday morning, when they took us to the hearing to see one
15 of the defendants, Ziad Abo Haidar.

16 Q. For the court reporter, who are we speaking about there?

17 A. Ziad Haidar, Z-i-a-d, H-a-i-d-a-r.

18 Q. And once you were in this facility, tell the Court what
19 it is that happened to you.

20 A. Well, they told me on Thursday -- you mean on Thursday?
21 Which?

22 Q. Let's go to Thursday because we've already heard a great
23 deal of testimony about the timeline. I don't want to repeat
24 that.

25 A. Thursday morning?

1 Q. Thursday morning, please explain to the Court what
2 happened.

3 A. They took me inside the room, Your Honor, where my wife
4 was being -- was waiting, and they told me: You have to
5 dismiss the lawsuit. And I told them: I'm not the
6 plaintiff. I cannot dismiss the lawsuit. They said: No,
7 you have to dismiss it.

8 And they bring the phone and my wife starts
9 screaming and crying. Then I picked up the phone and I
10 called. They told me: Call Mr. Berkeley. And I called him
11 and I told him: Dismiss the judges only, the defendants in
12 this case right now.

13 And my wife held the phone. She grabbed the phone
14 from me and went to the other corner of the room and started
15 screaming: Lorne, Lorne, don't dismiss. Don't dismiss.
16 Call the FBI. Call the FBI. Captain Cezane grabbed the
17 phone back from her and he gave it back to me and he said:
18 Do it.

19 And at that time they told me, Your Honor, that my
20 daughter is going to be taken hostage too and she's going to
21 be tortured.

22 Q. Mr. Samaha, when you were threatened with physical harm
23 to your daughter, was your wife present; or was that before
24 you entered the room?

25 A. No. They interrogated me in the room before I went to

1 see -- before they put me with my wife in the same room, they
2 asked me about the federal court, about the federal judge, if
3 I know the judge, why did my wife file, and that: You need
4 to dismiss the case. Your wife is not dismissing the case.
5 For your safety.

6 Q. For how long were you detained overall in Lebanon as a
7 result?

8 A. Eight days.

9 Q. From?

10 A. From April 4th to April 11th. April 4th to April 11th.

11 Q. What was it that finally prompted your release? What
12 happened that resulted in you finally being able to leave?

13 A. After they saw that Honorable Judge Jose Martinez filed
14 the default of the lawsuit, they still were nervous that he
15 might change his mind or something. They asked Mr. Berkeley
16 for a letter saying that he -- that Lara would never or me
17 would never open the lawsuit again.

18 And Mr. Berkeley wrote that letter under the
19 condition that my daughter Yasmina, my wife, and me will be
20 released and will be out of the country. And after he gave
21 them the paper, the letter -- the signed letter, they came
22 next day and told Lara: You have to pay ransom. You have to
23 give us your inheritance. And my wife start screaming more:
24 Why? Why are you doing this? Are you a government? Or are
25 you a drug cartel? What is this?

1 He says: You have to give your money, or you will
2 not get out.

3 Q. Now, the inheritance that you're referring to is part of
4 a lawsuit in Lebanon that commenced there; correct?

5 A. Yes, \$15 million.

6 Q. And that lawsuit is somewhat related to the federal
7 lawsuit, but it's an independent lawsuit; correct?

8 A. Yes.

9 Q. So when you were detained, they were asking you to
10 obtain a dismissal of the federal lawsuit and to have your
11 wife --

12 A. Yeah, but that happened, you know. They didn't ask for
13 everything right away. They asked on Thursday the judges.
14 On Thursday -- Thursday afternoon they asked for the
15 default -- default judgment and the family defendants, Friday
16 the identity. They didn't see it on the screen. They got
17 nervous. They waited until Monday.

18 Monday they saw that Honorable Judge Martinez
19 signed. They were relieved. Then they still got nervous
20 also again. Then they asked for Mr. Berkeley to dismiss --
21 to write the letter. It was probably on Monday. And then on
22 Tuesday or on Wednesday, supposed to be her lawyer, he never
23 was her lawyer, he went to the part of -- he went to a power
24 of attorney person and he signed off on her will, on her
25 inheritance money against my wife's will.

1 Q. So in fact this detention resulted in a dismissal of the
2 federal lawsuit and also the inheritance in Lebanon?

3 A. Yes, and the default judgments.

4 Q. And how were you treated during the period of time that
5 you were there? And I'm not going to go day by day.

6 So please describe for the Court the conditions,
7 the demeanor, the threats, everything that happened, to the
8 best of your ability.

9 A. We were tortured morally beyond words. We were scared
10 extremely on a daily basis. There was attempts -- multiple
11 attempts to take us and kill us because now they obtained the
12 federal lawsuit; they didn't want us to come back to this
13 court and tell you what happened. Whatever it takes for
14 Lara, for me, not to come back to the U.S. and tell the court
15 what happened, they will do it.

16 The ISF got very upset with the defendants, what
17 they are trying to do, and he didn't want to get involved.
18 And he told me: Call the U.S. embassy. Let them help you.
19 And Ambassador Elizabeth Richard and Cindy Wade and another
20 consul, general consul, they helped us. And they went to
21 Ziad Haidar's office on Monday.

22 Q. Ziad Haidar?

23 A. One of the defendants. And they told him: You do not
24 remove Elie and Lara. Because they knew we were going to be
25 killed before, so he told them okay. He told the embassy:

1 Okay, I'm not going to do anything anymore.

2 But General Hamoud was receiving calls on a daily
3 basis that he needs to -- they want to take us from the ISF
4 and kill us, and he will not be responsible.

5 Q. Mr. Samaha, let me just stop you there for a moment.

6 When you entered into the room where your wife was with
7 Captain Cezane and the interaction with the telephone
8 occurred, before entering there, had you been made specific
9 threats before you entered?

10 A. Yes. They told me they would bring my daughter and
11 detain her and torture her too.

12 Q. And was that something that you told your wife?

13 A. No. I couldn't tell. My wife was almost -- she was
14 collapsing, my wife; and I start and I fell three times.
15 They wanted to take me to the hospital, Your Honor. And I
16 got nervous because I am an American citizen and they were
17 afraid if something happened, I die, and they're going to be
18 responsible.

19 So they brought me the doctor, medication,
20 everything. And they told me: We're not going to -- this is
21 too much. It's going out of control. I told them: Why
22 don't you release us? They said: The judge's order. We
23 cannot release you, but we can make sure you don't get
24 killed. That's all we can do.

25 And they told me: Tell the embassy. And we told

1 ambassador, we told the consul exactly what's going on. They
2 were well aware of everything, every single detail.

3 Q. When you indicated to Mr. Berkeley to dismiss the
4 lawsuit, what was the fear that would happen to you, your
5 wife, and your daughter?

6 A. We're going to be killed for sure. They will never let
7 us out.

8 Q. I just want to be clear. At that moment --

9 A. You dismiss or you die. That's it. This is -- it was
10 very simple.

11 Q. And at the moment that you expressed this to
12 Mr. Berkeley, your wife was next to you?

13 A. She was screaming: Don't dismiss. Don't dismiss. Call
14 the FBI.

15 Q. Yes. And at that particular point she was not aware of
16 the threat that had been made to your daughter; correct?

17 A. No.

18 Q. Mr. Samaha, what do you do professionally in Lebanon?

19 A. I am an architect and real estate developer.

20 Q. And do you own businesses in Lebanon?

21 A. I used to own multiple companies before the defendant
22 closed it down. They poured a concrete wall in front of my
23 main warehouse.

24 Q. So your wife's inheritance is gone, the federal lawsuit
25 is dismissed, and in Lebanon your businesses were shutdown?

1 A. Yes. And in addition to that, we were threatened, Your
2 Honor. If we come to court again and tell you what happened,
3 they're going to sentence us to prison for a long term,
4 they're going to take my properties, and they will probably
5 send somebody after us to kill us here in the U.S.

6 Q. There came a point when you returned to the United
7 States; correct?

8 A. Yes.

9 Q. And when approximately was that?

10 A. April -- April 11th we were released. The embassy told
11 me: You need to leave immediately. To send the airline
12 tickets. And she was on the phone with me through what's up,
13 basically step by step.

14 Q. Pardon me, but you're going through step by step --

15 A. With Consul Cindy Wade.

16 Q. -- with Consul Cindy Wade, and she's giving you
17 step-by-step instructions?

18 A. Yes. She's telling me: Tell me when you leave the
19 house, when you enter the car, you reach the airport, you
20 pass customs, you're on the plane. I mean she wanted to know
21 every single step.

22 And on the plane I think there was an FBI agent who
23 was keeping an eye on us until we reached London, and then we
24 didn't see him again.

25 Q. All right. Once you returned to the United States, did

1 you immediately file this motion to reinstate this case or to
2 vacate the final judgment?

3 A. I'm not -- I'm not the plaintiff. My wife, no, she --
4 we -- she thought about it because the consequences are
5 extreme. I mean I know today -- after today is completely
6 different than yesterday. I know they're going to do really
7 bad things to my family now, so she had to think.

8 Q. Because of your testimony?

9 A. Because me and my wife told the judge what happened.

10 Q. All right. But when you left Lebanon, all of your
11 money, your property was seized; correct?

12 A. Right.

13 Q. There came a point when you returned to the United
14 States and there was a period of time before your wife
15 actually instructed counsel to file this motion;
16 approximately two months?

17 A. Right.

18 Q. What was happening during that two-month period of time
19 that caused you and your wife to wait for the filing?

20 A. Well, we had to consider the consequences, Your Honor,
21 of coming and telling you what happened. It's extremely
22 dangerous for us to do that, so we had to really consider
23 that. And also we had to sell some properties so we have
24 some money.

25 Q. All right. Were you able to sell finally some property?

1 A. Yes.

2 Q. And you obtained how much money?

3 A. About 160,000.

4 Q. And immediately after you obtained that money, how long
5 was it before --

6 A. Days.

7 Q. -- your wife then instructed your lawyer to file this
8 motion?

9 A. Days.

10 Q. All right. So during that two-month period of time
11 after you returned, not only were you considering the
12 consequences, but you were also making arrangements to have
13 some money in your pocket?

14 A. Right. Exactly.

15 MR. VILLASANTE: Okay. I don't have anything
16 further, Your Honor.

17 THE COURT: All right. Defense.

18 CROSS-EXAMINATION

19 BY MS. MASSELLA:

20 Q. Good morning, sir.

21 A. Good morning.

22 Q. I believe Mr. Villasante asked for the date of your
23 return to the United States, but I'm not sure we got it.

24 A. April 11th. April 11th they released us around
25 8:00 o'clock, we took the flight about April 12th, around

1 7:00 a.m. Within a few hours we were on the plane, so I
2 think the 12th, April 12th.

3 Q. You returned first to London and then to the United
4 States?

5 A. Yes. Yes. Beirut, London, Miami.

6 Q. And I think you told us that the lawsuit was dismissed
7 on your instructions to Mr. Berkeley; is that correct?

8 A. Yes. Yes.

9 Q. And that your wife did not agree to that at that time?

10 A. No. No, she did not.

11 Q. As far as you are aware, did Mr. Berkeley ever tell the
12 court that he dismissed the lawsuit pursuant to your
13 instructions at anytime after you returned on April 12th?

14 A. I don't know. I don't think so.

15 Q. You're not aware?

16 A. You have to ask him. I don't know.

17 Q. And you were not a party in the lawsuit; correct?

18 A. I have nothing to do with the lawsuit. They just took
19 me hostage so they can get the dismissal.

20 MS. MASELLA: Nothing further, Your Honor. Thank
21 you.

22 THE COURT: All right. Mr. Villasante.

23 MR. VILLASANTE: Your Honor, we have no other
24 witnesses at this time. I would just ask the Court to
25 consider the affidavit of Mr. Berkeley, which is docket

1 Item 98-3.

2 THE COURT: All right. Is there any objection to
3 the Court's consideration of that affidavit?

4 MS. MASELLA: No, Your Honor. No objection.

5 THE COURT: All right. So the testimony of Ms.
6 Mansour, Mr. Samaha, and the affidavit of Mr. Berkeley at
7 docket entry 98-3 is the plaintiff's evidence in the case?

8 MR. VILLASANTE: Yes, Your Honor.

9 THE COURT: All right. Now let me hear from
10 defense.

11 MS. MASELLA: Thank you, Your Honor. We have an
12 affidavit, a declaration of a Lebanese attorney for the
13 Court's consideration in this matter. We've marked it as
14 Exhibit 1, and we provided a copy to Mr. Villasante this
15 morning shortly after we received it.

16 It goes to the point of -- the point of foreign
17 law, which this Court is permitted to consider any source
18 under Rule of Civil Procedure 44.1 in terms of making its
19 determination as to what is foreign law and what it permits
20 in this case. And it goes to the point of whether in Lebanon
21 it is permissible and legal to detain someone who is charged
22 in a criminal case there, in addition to someone who might be
23 a witness in that case.

24 So we would request that we be permitted to submit
25 this for the Court's consideration on the point of foreign

1 law.

2 THE COURT: Generally when there is foreign law
3 involved and the parties seek for the Court to be advised of
4 that foreign law, in my experience in other cases, each side
5 has presented attorneys or people as such with that
6 expertise.

7 You're proposing that I just take your foreign law
8 expert's declaration without any input from the plaintiff?

9 MS. MASELLA: No, Your Honor. Just to be clear; we
10 did raise the same points that we're making in this
11 declaration in the declarations of the defendants in the
12 case, who are also judges, and the former minister of justice
13 in Lebanon, with the required expertise back in July when we
14 submitted our opposition in this case.

15 And the plaintiff, as far as I am aware, never
16 retained an expert or submitted anything along those points.
17 This is merely one additional declaration, which comes from
18 an independent lawyer, who is not a defendant in the case.

19 But the others are qualified lawyers in Lebanon,
20 who make all of the same points in their declarations; which
21 are dated, I believe, July 24th. Many months ago.

22 THE COURT: I'm sorry. I didn't mean to interrupt
23 you. Were their declarations submitted under Rule 44.1 for
24 the Court's benefit of what foreign law is; or were they
25 submitted as defendants in the case?

1 MS. MASELLA: They were submitted as defendants in
2 the case, Your Honor.

3 THE COURT: So this issue of foreign law as such
4 has not arisen until you provided this morning to plaintiff
5 the affidavit.

6 So my question to you is: Are you anticipating
7 that the Court accept your foreign law expert's affidavit
8 without any response from plaintiff?

9 MS. MASELLA: We are requesting that the Court
10 accept this. If the plaintiff wishes to respond, we do not
11 object to that.

12 THE COURT: All right.

13 MR. VILLASANTE: Your Honor, the matter was set for
14 hearing today as an evidentiary matter. This was handed to
15 me in the morning. Clearly there is a procedure. There is a
16 rule that must be followed before this is a proper submittal,
17 so we object to it on the whole.

18 I have no opportunity to cross-examine this
19 witness, the qualifications, the nature of any relationship
20 that that witness may have with defendants. It is very, very
21 problematic to simply submit at this late hour an affidavit
22 from someone purportedly an expert in the exact type of
23 field.

24 Moreover, what we have for the Court today is
25 beyond the status of the law in Lebanon. So we clearly

1 oppose any idea that -- that anything that happened in terms
2 of the detention was lawful. But even so, what cannot be
3 considered lawful by any court is torture; putting people in
4 Al Qaeda cells so that they then dismiss a federal lawsuit
5 here.

6 That's beyond the initial question of whether or
7 not the detention may or may not have been lawful. For
8 purposes of what we're here for today, as I understand it,
9 Your Honor, is to determine whether or not the arrest was
10 such -- that circumstances were such that vitiate this final
11 judgment. In other words: Was it introduced under duress or
12 not? And clearly it was.

13 The initial detention is not at issue for today.
14 What's at issue only is the dismissal and the circumstances
15 and the conditions and the facts leading to that dismissal.
16 End of issue.

17 THE COURT: So how is this affidavit that I haven't
18 seen relevant to the Rule 60 motion for relief from judgment?

19 MS. MASELLA: Yes, Your Honor. So it's the
20 plaintiff's burden to show duress. It is our position that a
21 lawful detention pursuant to the laws of the criminal matter
22 in Lebanon negate the duress. So it is really up to the
23 plaintiff as to whether he wants the opportunity to present
24 additional evidence on the point of whether the detention was
25 lawful or not.

1 THE COURT: I'm sorry. Let me see if I understand
2 you correctly.

3 You're relying on an attorney who is an expert on
4 Lebanese law --

5 MS. MASELLA: Yes, Your Honor.

6 THE COURT: -- to state that it is lawful for
7 Lebanese authorities to detain somebody on some charge?

8 MS. MASELLA: Correct. That there was an arrest
9 warrant issued for Ms. Mansour in connection with criminal
10 charges in Lebanon, that it is lawful to detain somebody for
11 a period of up to several months, and that it is also lawful
12 to detain somebody who might be a witness -- such as her
13 husband -- in the criminal matter in Lebanon.

14 THE COURT: And does your expert state anywhere in
15 his affidavit that Lebanese law condones the circumstances of
16 detention that have been described in this courtroom?

17 MS. MASELLA: It does not address the
18 circumstances, the particular circumstance that Ms. Mansour
19 and her husband testified about today, no.

20 THE COURT: So how does that affidavit counter the
21 plaintiff's claim of duress?

22 MS. MASELLA: It's up to -- well, we dispute that
23 the circumstances occurred exactly the way that the plaintiff
24 and her husband testified.

25 THE COURT: Have you presented any evidence to

1 dispute that?

2 MS. MASELLA: No, Your Honor. The evidence that we
3 presented demonstrates that our defendants -- our clients
4 rather, the Lebanese government officials, were unaware of
5 those circumstances.

6 THE COURT: Okay. But I don't think that that's
7 material to the issue of whether this was done under duress
8 or not. I think that's something else. Wouldn't you agree?

9 MS. MASELLA: It's another point, certainly, for
10 the Court to consider.

11 Our point is that the detention itself is lawful in
12 these circumstances.

13 THE COURT: That the detention under the
14 circumstances described by Mrs. Mansour and Mr. Samaha was
15 lawful under Lebanese law?

16 MS. MASELLA: No, Your Honor. It does not take
17 into account the particular circumstances that there was
18 testimony about.

19 THE COURT: So because the affidavit that is being
20 submitted does not address the issue of duress, I will not
21 consider it.

22 MR. VILLASANTE: Yes, Your Honor.

23 THE COURT: All right. Thank you very much. So do
24 you have anything else?

25 MS. MASELLA: No, Your Honor. Thank you.

1 THE COURT: All right. I will take just a very
2 brief break; ten minutes. I will hear argument from the
3 plaintiff on what rule they're traveling under and how
4 they -- how she believes she has satisfied that rule, and
5 then I will hear from what we're calling the Lebanese
6 defendants.

7 Let me clarify something. You have entered an
8 appearance for these individuals. I was looking over the
9 docket. What is the status of service? I know you've argued
10 personal jurisdiction and all those things. But have they
11 been served, or have you made your appearance reserving?
12 Because I looked over the notice of appearance, and I didn't
13 see any reservation there. So can you clarify that for me.

14 MS. MASELLA: Thank you, Your Honor. Yes, we are
15 reserving our argument with respect to service. Service was
16 made pursuant to UPS internationally, which we argue is not
17 sufficient under the Hague Convention. It is not proper
18 service.

19 THE COURT: Okay.

20 MS. MASELLA: We're also reserving personal
21 jurisdiction arguments, as well as subject matter
22 jurisdiction argument, which does not need to be reserved.
23 It can be heard by the Court at anytime. We're reserving all
24 those issues, Your Honor.

25 THE COURT: All right. But am I correct that the

1 notice of appearance did not contain any reservations?

2 MS. MASELLA: One moment, Your Honor. We're
3 checking the notice. We're unsure about that.

4 THE COURT: That's what I'm looking for also.

5 MS. MASELLA: We believe we did include it with our
6 initial opposition to the motion.

7 THE COURT: I kind of glanced at it while I was
8 looking at things before, so I see a motion to appear pro hac
9 vice and an order granting it.

10 MS. MASELLA: Yes, Your Honor. That was my motion
11 to appear pro hac. Mr. Samra appeared much earlier in the
12 case. We're looking right now.

13 THE COURT: I have a notice of appearance by Mr.
14 Samra dated July 17th.

15 MS. MASELLA: We're looking at it now. We did not
16 include it in the notice. We did include it in our
17 opposition to the plaintiff's motion.

18 THE COURT: Okay.

19 MS. MASELLA: We would request that we be permitted
20 to reserve the objection to --

21 THE COURT: I'm not going to make that ruling. You
22 can argue about that. I was just trying to determine what
23 posture the defendants were in.

24 MS. MASELLA: Thank you, Your Honor.

25 THE COURT: All right. So I will allow -- let's

1 just take a ten-minute break, and then I will allow ten
2 minutes per side.

3 And, as I said, the issue before the Court now is
4 whether to recommend to Judge Martinez to grant the motion
5 for relief from judgment. All right?

6 MR. VILLASANTE: Yes, Judge.

7 THE COURT: Thank you.

8 (Recess)

9 THE COURT: All right. Mr. Villasante, do you want
10 to reserve any of the ten minutes I'm granting you?

11 MR. VILLASANTE: No, Your Honor. I think I can be
12 brief. If I may proceed?

13 THE COURT: Go ahead.

14 MR. VILLASANTE: If your question was to reserve --

15 THE COURT: For rebuttal.

16 MR. VILLASANTE: -- I'll reserve two minutes, Your
17 Honor. Thank you.

18 THE COURT: All right.

19 MR. VILLASANTE: Judge, our motion is a Rule 60(b)
20 motion for relief from a judgment or order. In this
21 particular case the issue is whether or not the decision to
22 dismiss this case was made under duress. And the case law
23 that was cited by my prior counsel in the memorandum is
24 exactly on point, and it stresses that this is a matter that
25 is liberally construed to be well-within the discretion of

1 the Court.

2 And the circumstances in this case are particularly
3 gruesome; if I may describe it that way. This is an unusual
4 set of facts, which the case law addresses, and it permits
5 for the vacation of a final judgment specifically under those
6 circumstances.

7 This is a foreign entity torturing an American
8 citizen and an American permanent resident to dismiss a
9 federal matter in the United States of America. I can't
10 imagine anything much more offensive than that to happen
11 before this Court.

12 Not only did they require a dismissal of the
13 pending litigation against the defendants, they were
14 requiring it to be with prejudice and they were requiring
15 that the defaulted parties -- whom no one represented at the
16 time apparently -- also be dismissed from this lawsuit.

17 The only question before the Court -- and I think I
18 can be as brief as this. It's all addressed in the case law
19 that we have previously cited to the Court. It's a
20 Rule 60(b) motion. And relief from judgment is permitted
21 when the circumstances are such that we can demonstrate that
22 the decision was made under duress.

23 I can't imagine that what we heard today as
24 testimony can be qualified or described as anything other
25 than extreme duress, and this is what these people went

1 through. And Mrs. Samaha particularly -- Mrs. Mansour -- had
2 the courage to try to keep this lawsuit pending; even through
3 a substantial part of her horrific experience and torture;
4 and yet was forced to do so once her child was involved.

5 Her husband was the one who made that decision, but
6 it was clearly because the circumstances had arisen to that
7 level.

8 Your Honor, there is really no more argument to
9 make. The duress was the primary reason why and the only
10 reason why this matter was dismissed. We ask that the Court,
11 within its discretion, give us relief from that judgment and
12 allow this matter to go forward on the merits.

13 There will be other arguments, there will be other
14 days, there will be other things that will happen. But if we
15 reopen this right now and obtain a relief from this judgment,
16 all of those matters can be addressed at another time on
17 another day.

18 THE COURT: All right. Go ahead.

19 MS. MASELLA: Thank you, Your Honor. Starting with
20 respect to the point of duress, based on the testimony that
21 we heard today, as well as the affidavits entered in the
22 case, the actual circumstances of the dismissal of the
23 lawsuit are slightly unclear. And we don't have the
24 testimony -- the live testimony of the attorney Lorne
25 Berkeley, who actually filed the notice for dismissal.

1 By that I mean, we heard testimony that the
2 plaintiff herself did not agree to the dismissal of the
3 lawsuit but that her husband instructed Mr. Berkeley to file
4 for dismissal. Her husband is not a party to the lawsuit
5 and, as far as I know, is not a client of Mr. Berkeley then
6 in connection with this case.

7 The plaintiff and her husband returned to the
8 United States on April 12th. Mr. Berkeley is an attorney and
9 an officer of this court; and, as far as we're aware, he
10 never provided any notice to the Court that he dismissed a
11 lawsuit on the instructions of someone other than his client
12 in the case. And he was not here today to submit to
13 testimony to be questioned about that.

14 So the plaintiff has the burden of showing that the
15 duress led to the actual dismissal of the lawsuit, and the
16 testimony that we have so far is that the attorney of record
17 agreed to a dismissal on the instructions from someone other
18 than his client.

19 Backing up to the bigger picture, Mr. Villasante
20 refers to other arguments and other days if this case were to
21 be reinstated and the dismissal vacated. But we submit, Your
22 Honor, that it would be completely futile for the Court to
23 vacate the dismissal because there are issues that are
24 threshold issues that are so big in this case that are
25 deficient that the case cannot proceed; even if it were --

even if the dismissal were to be vacated.

The first of these is subject matter jurisdiction which, as the Court is likely aware, if at any point subject matter jurisdiction is lacking in a case, the Court does not have the authority to proceed.

In this case the plaintiff has pled diversity jurisdiction as the basis for the subject matter jurisdiction in the case. But in order to have diversity jurisdiction, you need to have a United States citizen on either side of the case, and the plaintiff has conceded that she is not a United States citizen; that she may be a permanent resident here, but she's not a citizen. And there is clear case law saying that permanent residency, while it confers other benefits here in this country, is not relevant for subject matter jurisdiction.

At the heart in this case, Your Honor, is a lawsuit that originated in Lebanon over disputes relating to the estate of the plaintiff's father, which is property in Lebanon, after he died in Lebanon among her and her various family members, all of whom reside in Lebanon. And so that makes clear, we think, that there is no reason for this case to be proceeding in U.S. court here, and that there is in fact no subject matter jurisdiction for the Court to have authority to proceed.

We've also raised the issues of personal

1 jurisdiction, as well as service. Those issues we think
2 would also be clear but would require additional factual --
3 an additional factual record, which was never -- we never got
4 to that point in this case because the complaint was
5 dismissed before any of the parties responded or filed
6 substantive motions in the case. And that's why, Your Honor,
7 we're here in somewhat of an unusual procedural posture,
8 raising issues such as subject matter jurisdiction, lack of
9 proper service, and personal jurisdiction, because the case
10 was dismissed before any of those -- before the time for
11 raising any of those issues in a substantive way and in a way
12 that they could be fully briefed was done.

13 With respect to Your Honor's earlier question about
14 the notice of appearance and the service argument, we did
15 not -- both of the notices of appearance that were done in
16 the case were rather short and boilerplate. But on March 12,
17 2019 -- which was the same day we filed our first notice of
18 appearance in the case, and that was by Mr. Harout Samra, who
19 is here with me this morning -- he filed on that same date a
20 motion for extension of time to respond to the complaint.
21 And in that motion there is a footnote addressing the issue
22 of service and reserving the right to raise an argument about
23 improper service at the appropriate time.

24 So in that motion we are asking for additional time
25 to respond to the complaint. The service argument was

1 raised. In fact, we never responded to the complaint because
2 the lawsuit was dismissed before the time to respond came up.

3 So, Your Honor, just to sum up, we do not believe
4 that the plaintiff has met its burden with respect to duress
5 because it's not clear how the instruction from the
6 husband -- her husband rather, to the lawyer resulted in a
7 dismissal of the lawsuit, over and above her wishes. Mr.
8 Berkeley is not here present in court to testify about the
9 circumstances and to shed light on that, and that it would be
10 futile to vacate the dismissal in this case because of the
11 critical threshold issues of subject matter jurisdiction,
12 personal jurisdiction, and service, all of which are
13 deficient in the case.

14 THE COURT: All right.

15 MR. VILLASANTE: Your Honor, we're here on a
16 Rule 60(b) motion to vacate a final -- relief from a final
17 judgment.

18 All the issues on jurisdiction are not before the
19 Court today. While subject matter jurisdiction can be raised
20 at anytime, it must be raised with adequate notice and
21 fulfilling all the due process requirements to which my
22 client is entitled. So if that is an argument that is being
23 made today, it's an argument that is not before the Court
24 when there has not been the proper due process notice, et
25 cetera, made to my client.

1 With respect to the duress, there isn't any
2 question but that the circumstances were such that it was so
3 confusing and so horrific for both of them that while Mrs.
4 Mansour was attempting to be strong, regardless, the
5 circumstances were of extreme duress. This was not just a
6 normal phone call to her attorney where things can be
7 considered and, you know, decided.

8 There is an affidavit of Mr. Berkeley, it is very
9 complete, and I ask the Court to read it. Now, Mr. Berkeley,
10 unfortunately, became a witness in this case as a result of
11 all this; therefore, I have substituted in. And I think it
12 is in our judgment best not to risk any attorney-client
13 privilege communications by having Mr. Berkeley come to
14 testify when we have a full and complete affidavit from him
15 that I think will shed light for the Court.

16 But with respect to the jurisdictional arguments,
17 again, Your Honor, that's argument for another day once this
18 matter is reinstated. Thank you.

19 THE COURT: All right. Anything else from either
20 side?

21 MS. MASELLA: Just very briefly, Your Honor. With
22 respect to our arguments on jurisdiction, they were raised in
23 all of our papers and all the various motions. We discussed
24 them with Mr. Villasante during the meet-and-confer sessions
25 that he referred to during the past few weeks.

1 And, finally, subject matter jurisdiction can be
2 raised at anytime by any party or the Court. There is no
3 conclusion that it cannot come up in a 60(b) context. In
4 fact, it can come up at anytime, in any proceeding, and/or
5 may be raised by the court on its own. Thank you, Your
6 Honor.

7 THE COURT: All right. Thank you very much.

8 C E R T I F I C A T E

9 I certify that the foregoing is a correct transcript
10 from the record of proceedings in the above-entitled matter.

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12 October 24, 2019

/s/ Vernita Allen-Williams

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